

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

1 IN THE MATTER OF )  
2 BALLARD CANAL PROPERTIES, INC., )  
3 Appellant, )  
4 vs. )  
5 PUGET SOUND AIR POLLUTION )  
6 CONTROL AGENCY, )  
Respondent. )

PCHB No. 506

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

8 THIS MATTER being an appeal of a \$250.00 civil penalty for an  
9 alleged smoke emission violation of respondent's Regulation I; having  
10 come on regularly for hearing before the Pollution Control Hearings Board  
11 on the 3rd day of June, 1974, at Seattle, Washington; and appellant,  
12 Ballard Canal Properties, Inc., not appearing and respondent, Puget  
13 Sound Air Pollution Control Agency, appearing through its attorney,  
14 Keith D. McGoffin; and Board members present at the hearing being  
15 Walt Woodward (presiding) and Mary Ellen McCaffree; and the Board having  
16 considered the sworn testimony, exhibits, records and files herein and  
17 having entered on the 4th day of June, 1974, its proposed Findings of Fact,  
18 Conclusions of Law and Order, and the Board having served said proposed

1 Findings, Conclusions and Order upon all parties herein by certified  
2 mail, return receipt requested and twenty days having elapsed from  
3 said service; and

4 The Board having received no exceptions to said proposed Findings,  
5 Conclusions and Order; and the Board being fully advised in the premises;  
6 now therefore,

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed  
8 Findings of Fact, Conclusions of Law and Order, dated the 4th day of  
9 June, 1974, and incorporated by this reference herein and attached  
10 hereto as Exhibit A, are adopted and hereby entered as the Board's  
11 Final Findings of Fact, Conclusions of Law and Order herein.

12 DONE at Lacey, Washington, this 2nd day of July, 1974.

13 POLLUTION CONTROL HEARINGS BOARD

14 Walt Woodward  
15 WALT WOODWARD, Chairman  
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11 Respondent. )  
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PCHB No. 506

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

8 This matter, the appeal of a \$250.00 civil penalty for an alleged  
9 smoke emission violation of respondent's Regulation I, came before  
10 the Pollution Control Hearings Board (Walt Woodward, presiding officer,  
11 and Mary Ellen McCaffree) in the Washington Commerce Building,  
12 Seattle, on June 3, 1974.

13 Respondent appeared through Keith D. McGoffin. Sherri Darkow,  
14 Bremerton court reporter, recorded the proceedings. Appellant did  
15 not appear, although the commencement of proceedings were delayed for  
16 45 minutes beyond the hour of 1:30 p.m., which was set in notices of  
17 hearing mailed to all litigants in this matter by this Board on  
18 February 25, 1974. The Board directed Mr. McGoffin to sustain

EXHIBIT A

1 respondent's position in this matter.

2 One witness was sworn and testified. Exhibits were admitted.

3 From testimony heard and exhibits examined, the Pollution Control  
4 Hearings Board makes these

5 FINDINGS OF FACT

6 I.

7 On December 7, 1973, from a boiler stack owned by appellant  
8 at 4735 Shilshole Avenue N.W., Seattle, King County, there was  
9 emitted for eight consecutive minutes white smoke of 60 to 70 percent  
10 opacity.

11 II.

12 In connection with the above, respondent issued to appellant  
13 Notice of Violation No. 8980, citing Section 9.03 of respondent's  
14 Regulation I, and Notice of Civil Penalty No. 1295 in the sum of  
15 \$250.00, which is the subject of this appeal.

16 III.

17 Three similar violations, each incurring a civil penalty of  
18 \$100.00, had been issued by respondent to appellant during the  
19 previous month. Appellant paid each of those penalties without  
20 filing appeals with this Board.

21 IV.

22 Section 9.03 of respondent's Regulation I makes it unlawful to  
23 cause or allow the emission for more than three minutes in any one hour  
24 period an air contaminant greater in opacity than 40 percent. Section  
25 3.29 authorizes respondent to levy a civil penalty of not more than  
26 \$250.00 for any violation of Regulation I.

27 FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

V.

Any Conclusion of Law hereinafter stated which is deemed to be a Finding of Fact is adopted herewith as same.

From these Findings, and hearing naught from appellant, the Pollution Control Hearings Board comes to these

CONCLUSIONS OF LAW

I.

Appellant was in violation of respondent's Regulation I as cited in Notice of Violation No. 8980.

II.

In view of the three similar violations issued to appellant in the previous months, the penalty in Notice of Civil Penalty No. 1295 is reasonable.

III.

Any Finding of Fact herein which is deemed to be a Conclusion of Law is adopted herewith as same.

Therefore, the Pollution Control Hearings Board issues this

ORDER

The appeal is denied and the penalty of \$250.00 is affirmed.

DONE at Lacey, Washington, this 4th day of June, 1974.

POLLUTION CONTROL HEARINGS BOARD

Walt Woodward  
WALT WOODWARD, Chairman

Mary Ellen McCaffree  
MARY ELLEN McCAFFREE, Member

FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER